

# House File 595

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON LOCAL  
GOVERNMENT

(SUCCESSOR TO HF 196)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to certain voluntary annexations and to  
2 involuntary annexations and providing an effective date.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 HF 595  
5 sc/es/25

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1 1 Section 1. Section 368.1, Code 2003, is amended by adding  
1 2 the following new subsection:  
1 3 NEW SUBSECTION. 10A. "Public land" means land owned by  
1 4 the federal government, the state, or a political subdivision  
1 5 of the state.  
1 6 Sec. 2. Section 368.4, Code 2003, is amended to read as  
1 7 follows:  
1 8 368.4 ANNEXING MORATORIUM.  
1 9 A city, following notice and hearing, may by resolution  
1 10 agree with another city or cities to refrain from annexing  
1 11 specifically described territory for a period not to exceed  
1 12 ten years and, following notice and hearing, may by resolution  
1 13 extend the agreement for subsequent periods not to exceed ten  
1 14 years each. Notice of a hearing shall be served by regular  
1 15 mail at least thirty days before the hearing on the city  
1 16 development board, and on the board of supervisors of the  
1 17 county in which the territory is located, and on all persons  
~~1 18 owning land within the area subject to the agreement and shall~~  
~~1 19 be published in an official county newspaper in each county~~  
~~1 20 containing a city conducting a hearing regarding the~~  
~~1 21 agreement, in any county within two miles of any such city,~~  
~~1 22 and in an official newspaper of each city conducting a hearing~~  
~~1 23 regarding the agreement.~~ The notice shall include the time  
1 24 and place of the hearing, describe the territory subject to  
1 25 the proposed agreement, and the general terms of the  
1 26 agreement. After passage of a resolution by the cities  
1 27 approving the agreements, a copy of the agreement and a copy  
1 28 of any resolution extending an agreement shall be filed with  
1 29 the city development board within ten days of enactment. If  
1 30 such an agreement is in force, the board shall dismiss a  
1 31 petition or plan which violates the terms of the agreement.  
1 32 Sec. 3. Section 368.7, subsection 1, Code 2003, is amended  
1 33 to read as follows:  
1 34 1. a. All of the owners of land in a territory adjoining  
1 35 a city may apply in writing to the council of the adjoining  
2 1 city requesting annexation of the territory. Territory  
2 2 comprising railway right-of-way or territory comprising not  
2 3 more than twenty percent of the land area may be included in  
2 4 the application without the consent of the owner to avoid  
2 5 creating an island or to create more uniform boundaries ~~if a~~  
~~2 6 copy of the application is mailed by certified mail to the~~  
~~2 7 owner and each affected public utility, at least fourteen~~  
~~2 8 business days prior to any action taken by the city council on~~  
~~2 9 the application.~~ The application must contain a legal  
2 10 description and a map of the territory showing its location in  
2 11 relationship to the city. ~~An annexation including territory~~  
~~2 12 comprising not more than twenty percent of the land area~~  
~~2 13 without consent of the property owners is not complete without~~  
~~2 14 approval by four-fifths of the members of the board after a~~  
~~2 15 hearing for all affected property owners and the county.~~  
2 16 Public land may be included in the territory to be annexed.  
2 17 However, the area of the territory that is public land  
2 18 included without the written consent of the agency with  
2 19 jurisdiction over the public land may not be used to determine  
2 20 the percentage of territory that is included with the consent  
2 21 of the owner and without the consent of the owner.

2 22 b. Prior to notification in paragraph "c", the annexing  
2 23 city shall provide written notice to the board of supervisors  
2 24 and township trustees of each county and township that  
2 25 contains all or a portion of the territory to be annexed. The  
2 26 written notice shall include the same information required in  
2 27 paragraph "c" and shall set a time for a consultation on the  
2 28 proposed annexation between the annexing city and each county  
2 29 and township that contains all or a portion of the territory  
2 30 to be annexed. The consultation shall be held at least  
2 31 fourteen business days before the applications in paragraph  
2 32 "c" are mailed. The governing body of each such county and  
2 33 township may designate one of its members to attend the  
2 34 consultation. Each such county and township may make written  
2 35 recommendations for modification to the proposed annexation no  
3 1 later than seven business days following the date of the  
3 2 consultation.

3 3 Not later than thirty days after the consultation, the  
3 4 board of supervisors of each county that contains all or a  
3 5 portion of the territory to be annexed shall, by resolution,  
3 6 state whether or not it supports the application or whether it  
3 7 takes no position in support of or against the application.  
3 8 If there is a comprehensive plan for the county, the board  
3 9 shall take the plan into account when considering its  
3 10 resolution. A copy of the resolution shall be immediately  
3 11 filed with the annexing city and shall be considered by the  
3 12 city council when taking action on the application. The city  
3 13 council shall forward a copy of the resolution to the city  
3 14 development board as part of the city proceedings on the  
3 15 annexation. Failure of a board of supervisors to adopt a  
3 16 resolution shall not delay the proceedings on the application  
3 17 nor shall such failure be considered a deficiency either in  
3 18 the application or in the annexing city's proceedings.

3 19 c. A copy of the application shall be mailed by certified  
3 20 mail to the nonconsenting owner and each affected public  
3 21 utility, at least fourteen business days prior to any action  
3 22 taken by the city council on the application. The application  
3 23 must contain a legal description and a map of the territory  
3 24 showing its location in relationship to the city.

3 25 d. The city shall provide for a public hearing on the  
3 26 application before approving or denying it. The city shall  
3 27 provide written notice at least fourteen business days prior  
3 28 to any action by the city council regarding the application,  
3 29 including a public hearing, by regular mail to the chairperson  
3 30 of the board of supervisors of each county which contains a  
3 31 portion of the territory proposed to be annexed, each public  
3 32 utility which serves the territory proposed to be annexed,  
3 33 each owner of property located within the territory to be  
3 34 annexed who is not a party to the application, and each owner  
3 35 of property which that adjoins the territory to be annexed  
4 1 unless the adjoining property is in a city. The city shall  
4 2 publish notice of the application and public hearing on the  
4 3 application in an official county newspaper in each county  
4 4 which contains a portion of the territory proposed to be  
4 5 annexed. Both the written and published notice shall include  
4 6 the time and place of the public hearing and a legal  
4 7 description of the territory to be annexed. The city may not  
4 8 assess the costs of providing notice as required in this  
4 9 section to the applicants.

4 10 e. An application for annexation under this subsection may  
4 11 be withdrawn by an applicant at any time within three business  
4 12 days after the public hearing unless the application was made  
4 13 pursuant to a written agreement for the extension of city  
4 14 services or unless the right to withdraw the application was  
4 15 specifically identified and waived by the applicant in the  
4 16 application. A landowner who has consented to the annexation  
4 17 may, within three business days after the public hearing,  
4 18 withdraw the landowner's consent to the annexation unless the  
4 19 landowner has entered into a written agreement for extension  
4 20 of city services or unless the right to withdraw consent was  
4 21 specifically identified and waived by the landowner.

4 22 f. An annexation including territory comprising not more  
4 23 than twenty percent of the land area without consent of the  
4 24 property owners is not complete without approval by four=  
4 25 fifths of the members of the city development board after a  
4 26 hearing for all affected property owners and the county. When  
4 27 considering such an annexation application, the board may  
4 28 request that the annexing city provide information on the  
4 29 amount of land located in the annexing city that is currently  
4 30 vacant or undeveloped and whether municipal services are being  
4 31 provided to current residents of the annexing city.

4 32 Sec. 4. Section 368.11, Code 2003, is amended by adding

4 33 the following new subsection:

4 34 NEW SUBSECTION. 14. In the case of an annexation, a plan  
4 35 for extending municipal services to be provided by the  
5 1 annexing city to the annexed territory within three years of  
5 2 July 1 of the fiscal year in which city taxes are collected  
5 3 against property in the annexed territory.

5 4 Sec. 5. Section 368.11, unnumbered paragraph 5, Code 2003,  
5 5 is amended to read as follows:

5 6 Before a petition for involuntary annexation may be filed,  
5 7 the petitioner shall hold a public meeting on the petition.  
5 8 Notice of the meeting shall be published in an official county  
5 9 newspaper in each county which contains a part of the  
5 10 territory at least five days before the date of the public  
5 11 meeting. The mayor of the city proposing to annex the  
5 12 territory, or that person's designee, shall serve as  
5 13 chairperson of the public meeting. The city clerk of the same  
5 14 city or the city clerk's designee shall record the proceedings  
5 15 of the public meeting. Any person attending the meeting may  
5 16 submit written comments and may be heard on the petition. The  
5 17 minutes of the public meeting and all documents submitted at  
5 18 the public meeting shall be forwarded to the county board of  
5 19 supervisors of each county where the territory is located and  
5 20 to the board by the chairperson of the meeting.

5 21 Sec. 6. Section 368.11, Code 2003, is amended by adding  
5 22 the following new unnumbered paragraph:

5 23 NEW UNNUMBERED PARAGRAPH. Within thirty days after  
5 24 receiving notice that a petition for involuntary annexation  
5 25 has been filed with the board, the board of supervisors of  
5 26 each county that contains all or a portion of the territory to  
5 27 be annexed shall, by resolution, state whether or not it  
5 28 supports the petition or whether it takes no position in  
5 29 support of or against the petition. If there is a  
5 30 comprehensive plan for the county, the board shall take the  
5 31 plan into account when considering its resolution. A copy of  
5 32 the resolution shall be immediately filed with the annexing  
5 33 city and with the city development board. Failure of a board  
5 34 of supervisors to adopt a resolution shall not delay the  
5 35 proceedings on the petition nor shall such failure be  
6 1 considered a deficiency either in the petition or in the  
6 2 annexing city's proceedings.

6 3 Sec. 7. Section 368.25, Code 2003, is amended to read as  
6 4 follows:

6 5 368.25 FAILURE TO PROVIDE MUNICIPAL SERVICES.

6 6 Prior to expiration of the three-year period established in  
6 7 section 368.11, subsection 14, the annexing city shall submit  
6 8 a report to the board describing the status of the provision  
6 9 of municipal services identified in the plan required in  
6 10 section 368.11, subsection 14. If a city fails to provide  
6 11 municipal services, or fails to show substantial and  
6 12 continuing progress in the provision of municipal services, to  
6 13 territory involuntarily annexed, according to the plan for  
6 14 extending municipal services filed pursuant to section 368.11,  
6 15 subsection 14, within three years after city taxes are imposed  
6 16 in the annexed territory the time period specified in that  
6 17 subsection, the city development board shall may initiate  
6 18 proceedings to sever the annexed territory from the city. The  
6 19 board shall notify the city of the severance proceedings and  
6 20 shall hold a public hearing on the proposed severance. The  
6 21 board shall give notice of the hearing in the same manner as  
6 22 notice of a public meeting in section 368.11. The board may  
6 23 order severance of all or a portion of the territory and the  
6 24 order to sever is not subject to approval at an election.

6 25 However, a city may appeal to request that the board for  
6 26 allow up to an additional three years to provide municipal  
6 27 services if good cause is shown. A petition for severance  
6 28 filed pursuant to this section shall be filed and acted upon  
6 29 in the same manner as a petition under section 368.11. As an  
6 30 alternative to severance of the territory, the board may  
6 31 impose a moratorium on additional annexation by the city until  
6 32 the city complies with its plan for extending municipal  
6 33 services. For purposes of this section, "municipal services"  
6 34 means services selected by a landowner to be provided by the  
6 35 city, including, but not limited to, water supply, sewage  
7 1 disposal, street and road maintenance, and police and fire  
7 2 protection, if the provision of such services is within the  
7 3 legal authority of the annexing city included in the plan  
7 4 required by section 368.11, subsection 14, for extending  
7 5 municipal services.

7 6 Sec. 8. NEW SECTION. 368.26 ANNEXATION OF CERTAIN  
7 7 PROPERTY == COMPLIANCE WITH LESS STRINGENT REGULATIONS.

7 8 A city ordinance or regulation that regulates a condition

7 9 or activity occurring on protected farmland or regulates a  
7 10 person who owns and operates protected farmland is  
7 11 unenforceable against the owner of the protected farmland for  
7 12 a period of ten years from the effective date of the  
7 13 annexation, to the extent the city ordinance or regulation is  
7 14 more stringent than county legislation. Section 335.2 shall  
7 15 apply to the protected farmland until the owner of the  
7 16 protected farmland determines that the land will no longer be  
7 17 operated as an agricultural operation. Any enforcement  
7 18 activity conducted in violation of this section is void.

7 19 A "condition or activity occurring on protected farmland"  
7 20 includes but is not limited to the raising, harvesting,  
7 21 drying, or storage of crops; the marketing of products at  
7 22 roadside stands or farm markets; the creation of noise, odor,  
7 23 dust, or fumes; the production, care, feeding, or housing of  
7 24 animals including but not limited to the construction,  
7 25 operation, or management of an animal feeding operation, an  
7 26 animal feeding operation structure, or aerobic structure, and  
7 27 to the storage, handling, or application of manure or egg  
7 28 washwater; the operation of machinery including but not  
7 29 limited to planting and harvesting equipment, grain dryers,  
7 30 grain handling equipment, and irrigation pumps; ground and  
7 31 aerial seeding and spraying; the application of chemical  
7 32 fertilizers, conditioners, insecticides, pesticides, and  
7 33 herbicides; and the employment and use of labor.

7 34 For the purposes of this section, "protected farmland"  
7 35 means land that is part of a century farm as that term is  
8 1 defined in section 403.17, subsection 10. "County  
8 2 legislation" means any ordinance, motion, resolution, or  
8 3 amendment adopted by a county pursuant to section 331.302.

8 4 Sec. 9. IMMEDIATE EFFECTIVE DATE. This Act, being deemed  
8 5 of immediate importance, takes effect upon enactment.

8 6 HF 595  
8 7 sc/es/25